

REMARKS

In response to the Office Action mailed May 4, 2007 (hereinafter “Office Action”), claims 1, 29, and 57 have been amended. No claims have been cancelled or newly added. Therefore, claims 1-57 remain pending. Support for the instant amendments is provided throughout the as-filed Specification. Thus, no new matter has been added. In view of the foregoing amendments and following comments, allowance of all the claims pending in the application is respectfully requested.

REJECTIONS UNDER 35 U.S.C. §§ 102 - 103

Claims 1-3, 6-21, 24-31, 34-39 and 52-57 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 7,26,778 to Bode *et al.* (“Bode”). Claims 4 and 32 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bode in view of U.S. Patent No. 6,976,018 to Teng *et al.* (“Teng”). Claims 5 and 33 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bode in view of U.S. Patent No. 7,185,001 to Burdick *et al.* (“Burdick”). Claims 22, 23, 50 and 51 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bode in view of the Official Notice taken.

Applicant disagrees with the propriety of these rejections. However, independent claims 1, 29, and 57 have been amended solely in an effort to expedite prosecution.

For example, independent claim 1 recites, *inter alia*, the feature(s) of:

a monitoring module that monitors, via the first interface, a communication between a user associated with the remote client and at least one other individual.

Independent claim 29 recites:

monitoring, via the first interface, a communication between a user associated with the remote client and at least one other individual.

Impendent claim 57 recites:

monitoring means for monitoring a communication between a user associated with a remote client and at least one other individual..

Bode fails to disclose *at least* the foregoing features. For example, Bode fails to disclose a communication between a user associated with a remote client and at least one other individual.

Bode discloses a dialog engine 435 for communications between a *user* and the *system* 400. [See Bode; Col. 8, lines 11-16]. By contrast, Applicant discloses and claims a system and method for monitoring communications between individuals.

For at least the foregoing reasons, the rejection of independent claims 1, 29 and 57 under 35 U.S.C. 102(e) based on Bode is improper, and should be withdrawn. Dependent claims 2-28 and 30-56 are allowable because they depend from the allowable independent claims, as well as for the further features they recite.

The Examiner's invocation of Official Notice for the rejection of dependent claims 22, 23, 50 and 51 is legally improper. MPEP § 2144.03 provides that:

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable" of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).

The subject matter of claims 22-23 and 50-51 is not subject matter that is either well-known, and/or capable of instant and unquestionable demonstration as being well-known. Further, MPEP § 2144.03(b) provides that "[i]f [Official Notice] is taken, the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." (**emphasis added**). Indeed, the Examiner has failed to provide any factual basis or reasoning for taking Official Notice other than mere conclusionary remarks. Accordingly, the taking of Office Notice is improper.

CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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